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# MUNITIONS LIST EXPORT LICENSING ISSUES

## HEARING

BEFORE THE

## COMMITTEE ON INTERNATIONAL RELATIONS HOUSE OF REPRESENTATIVES

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# MUNITIONS LIST EXPORT LICENSING ISSUES

**TUESDAY, MARCH 28, 2000**

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERNATIONAL RELATIONS,
*Washington, DC.*

The Committee met, pursuant to notice at 2 p.m., in room 2200, Rayburn House Office Building, Hon. Benjamin A. Gilman (Chairman of the Committee) presiding.

Chairman GILMAN. The meeting will come to order. The purpose of today's hearing is to hear from the Administration on the issues related to defense exports. To present the Administration views, we are pleased to welcome the Honorable John Holum who is the senior advisor to the Secretary of State for Arms Control and International Security.

Mr. Holum, as you may be aware, when the Secretary was before the Committee in February, I raised with her our concerns about the recently signed Declaration of Principals for Defense Equipment and Industrial Cooperation between our nation and the U.K. That agreement which, as you know, is not legally binding was negotiated between our Department of Defense and the British Ministry of Defense. Neither the State Department, nor any other U.S. agencies with equities in this document were involved. I expressed particular concerns about the language on export controls in the declaration. I then noted and reaffirm now that I don't support exemptions for munitions licenses for the U.K. or any other allied country, for that matter.

In fact, Mr. Holum, I trust that you're aware of our March 16th letter to the Secretary signed by Mr. Gejdenson and myself as well as by Senator Helms and Senator Biden which among other things we make clear our united and strong opposition to any proposals extending exemptions to allied countries. We expect to hear today in rather clear terms your position on any exemptions.

In addition, our letter made it clear that we expect full consultation by the Administration on those initiatives involving defense exports that you expect to unveil at the May NATO Ministerial Meeting. The U.S.-U.K. declaration is but the latest manifestation of the so-called "globalization efforts" of our good friends over at the Pentagon. We have significant reservations about those efforts, particularly as they infringe upon our shared responsibilities to ensure that the spirit and the letter of the Arms Export Control Act is going to be fully met.

Finally, let me note that I expect that other Members will raise with you pointed questions about the efficiency of our munitions li-

censing process. Your testimony addresses this issue. We look forward to hearing you out.

I would like to note that I share those concerns and have therefore worked hard to try to find additional resources for you over the past 2 fiscal years. But you need to do more to make certain that the right things get to the right people as quickly as possible.

Are there any other opening statements?

Mr. GEJDENSON. Mr. Chairman.

Chairman GILMAN. Mr. Gejdenson.

Mr. GEJDENSON. Mr. Chairman, like you, I am frustrated to see that State was—and by the way, DOD seems to be doing the right thing, you might want to take lessons from them in other areas by taking down some of the restrictions on our closest allies. But, I mean, it's as if your agency disappeared on this one and you ought to be setting policy, not the Defense Department. So we would obviously like to hear what you have to say.

Then as much to my colleagues as to the witness, when this happened, I said that we would devastate our industry to no effect on the transfer of technology and science. We now have a report in today's Washington Post that says, the United States has lost 40 percent of its share of satellites since we transferred the regulatory process on satellites from Commerce to State Department. And Daimler-Benz which is—at least partially was an American company now says it's not going to buy any American parts because of the process being so unpredictable. Here we are, we're not going to go back to making blankets, you know, our economy is not going to succeed at the bottom end of technology. The Congress, I think, in a somewhat—I won't characterize it, but not in the wisest of moves, moved this regulatory process to State and now we see the net results. The people who want to get these items are getting these items. They're just not getting them from the United States. What is our benefit in this kind of process? Where do we gain by having other countries just get all this technology someplace else and lose market share which means we will end up in that old circle; at some point the United States will have to be asking other countries for technology because their companies will have made the profit, they'll be the ones out in front, and we'll be where we were with the machine tool industry.

I'm going to tell this story once more, and I know it frustrates me because it seems to me there are some things that don't take graduate degrees from Harvard or Yale. When you look at what happened with the machine tool industry, the Defense Department in that case, stopped our machine tool industry from exporting its best machine tools. Very rapidly we got to the point where the Defense Department wanted to buy Japanese machine tools because ours were no longer the front end of the market.

When this Administration came in, I hoped we would see an improvement. What we saw was the case of telephone switching systems. The Chinese wanted to buy 565's, we wouldn't sell it to them. So what happened? They made their own, the Israelis sold them 625's. What did we accomplish?

I asked the same question about the satellite industry. I know you're getting more staff, do you think you'll be able to do better? What we have here is a product that's almost a commodity at the

top end of technology. While we sit around shuffling papers, other countries are going to take market share, and that means jobs. That's maybe not that important at this stage to some people. I think it's pretty important. I think that, you know, if we lose this top end of technology, our economy is going the go south at some point, but what are we accomplishing by shifting other countries to buy products from our allies? You know, I've heard now for a decade that we're going to have this new agreement.

First it was on encryption, now it's going to be on sales again. You know, frankly COCOM didn't work with our allies when we had a Soviet Union to worry about. Now, when the Administration and half of Congress is trying to give most favored nations status to China, I'm not sure who we are trying to keep equipment from that they cannot get almost anywhere else. If I was a public official who was responsible for losing a 40 percent share of what was a pretty darned important market to us, I'd have to have an explanation besides, "gee, we're trying to get some more people in here so we can run this paper around in a big circle." You've got to find a way to make this work. This is damaging our national security and our economy.

I'd be happy to yield.

Mr. BERMAN. I thank you for your time. As I remember the situation, it was the Clinton Administration that administratively moved commercial satellites from State to Commerce back in 1993. Prior to that time it had always been a munitions list item and it was this Administration that moved those commercial satellites to the Commerce Department. It was only——

Chairman GILMAN. They moved it back.

Mr. BERMAN. It was Congress that moved it back after the initial reports of technology transfers on the missile technology came out in the papers and the context of the creation of the Cox Committee and all of that.

Chairman GILMAN. The gentleman's time has expired. You will get your own time shortly.

I would like to welcome Congressman Kuykendall of California. He's not a Member of the Committee, but he requested to join us. He's a Member of the Armed Services Committee.

Mr. Bereuter.

Mr. BEREUTER. I thank you, Mr. Chairman. Mr. Holum, I do have some views that are slightly different than the gentleman from Connecticut. I am concerned that the recent announcement by the Commerce Department that it was continuing to exert export control jurisdiction over a number of satellite technologies pending a review by the NSC.

This declaration, which was posted on the Commerce web site, contravenes the clear intent of Congress when it enacted provisions addressing the jurisdiction issue in the Fiscal Year 1999 Defense Authorization Act. Through the enactment of that law, I believe the Congress made it absolutely clear that it wants all export jurisdiction decisions regarding commercial communication satellites to be under the jurisdiction of the Department of State and not the Department of Commerce. Licensing review for export of militarily sensitive technology to countries of proliferation concern—countries such as China—should be guided by those agencies which, pursu-

ant to U.S. law and practice, give an overriding priority to national security considerations.

This declaration also demonstrates, unbelievably, in my view, that the Administration apparently has not learned from its previous problems which were revealed by the bipartisan Cox Select Committee on which I serve and by the Senate Select Committee on Intelligence where it was pointed out that granting the Commerce Department jurisdiction over export controls contributed to the PRC's acquisition of ballistic missile technology from U.S. defense firms. I'm particularly concerned to learn that some of the satellite technology still under Commerce Department jurisdiction are also used in U.S. military satellites including reconnaissance satellites.

I have a slightly different view on this issue as you can see, Mr. Holum. I'm wondering why it is that the Administration has not done what Congress told them to do—to give the State Department the responsibility.

Thank you, Mr. Chairman.

Chairman GILMAN. Thank you, Mr. Bereuter.

Mr. Berman.

Mr. BERMAN. No, thanks.

Chairman GILMAN. Mr. Rohrabacher.

Mr. ROHRABACHER. Thank you very much, Mr. Chairman. The national security issues concerning licensing of arms exports has never been more critical. As Mr. Bereuter just noted, the Cox report on the transfer of United States technology to modernize and perfect China's missile and satellite systems is a profound example of the resulting danger from a lack of proper export controls. The transfers of critical American technologies and know-how to Communist China is having a dramatic impact on the security of the people of the United States and the safety of our military forces in Asia. One less of this episode has to be that when it comes to space technology, much less other technologies, you cannot separate military from civilian capabilities. Other technologies may be in a different situation. But space technologies, that relationship is something that seems to be inseparable.

As Chairman of the Science Space and Aeronautics Subcommittee, I drafted legislation, which became law last year, clarifying the difference between selling missile-related technologies to America's friends and potential enemies. Mr. Gejdenson may think the world is divided between other countries and the United States, but it's a little more complicated than that.

Fact is, there are some other countries that pose a threat to the safety of the United States of America, the security of our country and pose a great danger to us and other countries that don't.

While the success rate of China's dual purpose rocket and missile systems, back to their satellites in space alone, and these systems, the rocket and missile systems that have been enhanced by American technology and know-how, has enabled Chinese leaders to make threats against the United States of America. They're right up front about it, and I quote, "United States leaders value the lives of 200 million Americans over the lives of 23 million Taiwanese." In addition we must note that the recent successful launch of the Chinasat–22 communications satellite on a Long

March 3A rocket—both the satellite and the rocket improved significantly by the gift of American "rocket failure analysis" and America's sophisticated technology; this has dramatically improved the communist Chinese military's command and control capabilities for combat against Taiwan and against American military forces in that part of Asia, should there be a confrontation. The satellite is what was labeled a force multiplier. What are we doing providing technology and know-how to Communist China that permits them to have a force multiplier which makes their military more effective in killing adversaries when someday those adversaries might be American military personnel.

On the other hand, the Clinton Administration is refusing to cooperate with this Committee on central issues concerning the defense needs of Taiwan, a treaty ally of the United States. The Administration has steadfastly refused to let Congress ever see a DOD report on two defense systems that are needed to deter attack against Taiwan from the mainland. I am submitting for the record an article from today's South China Morning Post that describes how Chinese strong man Jiang Zemin is ordering his military commanders to "act soon " with force against Taiwan.

Chairman GILMAN. Without objection it will be made part of the record.

[The information appears in the appendix.]

Mr. ROHRABACHER. Today's Washington Times reports that China is deploying new missiles along its southern coast opposite of Taiwan. Frighteningly reminiscent of the period that led to the Korean War, the Administration is giving Beijing signals that we are not committed to Taiwan's defense. At the same time what's happening? We've been giving them military technologies. While these lax controls, these signals, this technology transfer has benefited China's military modernization, but has also given an incredibly wrong signal to the Chinese communists that may lead to tragic consequences for the people of China and the people of the United States.

I am in full agreement with a suggestion made by representatives of American industry that recently testified before Ms. Ros-Lehtinen's Economic Policy and Trade Subcommittee that we should expedite the licensing and processing to friendly nations of satellite technologies and other technologies as well. I hear we have a thermal transfer unit from, I guess it's Lockhart Technology Industries in California. There's no reason why we have to hold up the sale of this type of technology to Belgium or Brazil. But, yeah, there is a reason we might want to look at it when it comes to enemies of the United States like—like potential enemies like China, or perhaps other—North Korea, that's very reasonable.

What we have here is the Administration dragging its feet on trying to make the difference on this company's ability to have success as well as our satellite company's ability to succeed and selling their product overseas, because they're unwilling to differentiate between a potential enemy and a friend of the United States. This is a sin against the American people and a sin against our national security.

I believe that a list should have been made, based on what has already been passed through Congress, concerning what countries

are a potential enemy of the United States and what countries pose no threat to the United States. I'm looking forward to hearing the explanation of why those lists haven't been made and why we aren't moving forward so that companies like this who want to export don't find themselves hampered at a time—in other words, we can control exports to those countries that pose a threat to us and there's nothing wrong with that, but at the same time we can open up a pre-trade with the other countries that are friends of the United States. There's nothing wrong with that type of analysis and it's beyond me why we're getting so much hesitation and so much complication in trying to establish that as the rule of the land.

Mr. BERMAN. Mr. Chairman, I ask unanimous consent that——

Mr. ROHRABACHER. Well, I would be very happy to yield whatever time I have left.

Mr. BERMAN. Mr. Chairman, I ask unanimous consent the gentleman have 2 additional minutes.

Chairman GILMAN. Without objection. The gentleman is recognized.

Mr. BERMAN. In, I believe it was the fall of 1994——

Mr. ROHRABACHER. Right.

Mr. BERMAN [continuing]. The Clinton Administration imposed sanctions on satellite and missile technologies going to the PRC because of the PRC's proliferation of MTCR controlled items to Pakistan. The result of that was that the only munitions list items going to China, satellites, were blocked. At that time a number of Members of the California delegation, including my friend, Mr. Rohrabacher, wrote a letter and pushed this Administration to move commercial satellites to the Commerce Department list on the grounds that it had no implications whatsoever for the Chinese missile program and that therefore those sanctions should not apply to commercial satellites.

What the gentleman says now is very different and I'm curious about what caused the change in thinking in this regard.

Mr. ROHRABACHER. Anybody who stays committed to one policy even though it doesn't look like it's working is a fool, and the fact is, I learn from situations as they evolve, and there is no—and what has happened since 1994 has indicated to me that the Communist Chinese regime is not evolving toward democracy, the regime is still committing genocide and is becoming more belligerent to the United States, not less belligerent, plus what resulted from that, and those of who signed that letter were given every assurance—and if you read the letter you will see that those assurances were mentioned in the letter—that there would be no transfer of technology to the Communist Chinese whatsoever, and that all the safeguards would be taken and that the Administration—we were counting on the Administration to do that, those safeguards were not included.

This Administration trashed the very safeguards that we've talked about and there was a transfer of technology that threatened the safety of our country. Yes, I learned from that and I would hope that other Members of Congress would learn from that as well.

Mr. BERMAN. Would the gentleman yield further?

Mr. ROHRABACHER. I certainly will.

Mr. BERMAN. First of all I asked——

Chairman GILMAN. The gentleman's time has expired.

Mr. ROHRABACHER. I ask for 1 additional minute.

Mr. BERMAN. I very much appreciate the gentleman's candor in acknowledging that his position has changed.

Mr. ROHRABACHER. Which, there's nothing wrong with that.

Mr. BERMAN. The only thing I would say was that in 1994 China was not democratic, was still persecuting religious minorities and was certainly a proliferator of missile technology which is why the sanctions were imposed. The representations concerning what will be provided with that satellites came from a company called Hughes, not from the Administration. It was based on Hughes' representations that Members of Congress signed those letters.

Mr. ROHRABACHER. If I could reclaim the one last 30 seconds of that minute.

No, it was based on briefings given to me by the Administration, by officials of the Administration, as you probably received those very same briefings——

Mr. BERMAN. But the Administration imposed the sanctions. They ended up going along with the Congressional pressure to transfer these satellites——

Mr. ROHRABACHER. The Administration——

Mr. BERMAN [continuing]. Off the munitions list.

Mr. ROHRABACHER [continuing]. Behind the scenes, the Administration was fully behind this move. It was a move on part of the Administration.

Mr. BERMAN. No, it wasn't.

Mr. ROHRABACHER. And this letter was being used as a cover.

Mr. BERMAN. No.

Mr. ROHRABACHER [continuing]. So that they could fulfill their own policy goals.

Chairman GILMAN. The gentleman's time has expired.

Mr. ROHRABACHER. I learned from my mistake.

Chairman GILMAN. Mr. Manzullo?

Mr. GEJDENSON. I would ask unanimous consent for 30 seconds.

Chairman GILMAN. The gentleman is recognized for 30 seconds.

Mr. GEJDENSON. Thank you. I just hope that my friend Mr. Rohrabacher, being able to evolve his positions, would now look at the fact that those allies he talked about are selling everything that we wouldn't sell the Chinese and others, that there's been no diminution of what the Chinese get now. It was a mistake sending it over to State. They can buy these products anywhere in the world and the only result of your actions is that all our allies are taking over market share.

Chairman GILMAN. The gentleman's time has expired.

Mr. MANZULLO. This is getting pretty spirited up here.

[Laughter.]

Mr. MANZULLO. I never thought I'd be to the right of Dana Rohrabacher.

[Laughter.]

Mr. MANZULLO. Usually you sit to my right in the seating chart in the full Committee.

My concern here is very simple. There's a mentality that applies not only to these satellites, which are sophisticated, but not unique to other technologies. It's critical to make that statement. When we don't sell a satellite to China, France will; the same technology. The technology is going to them. They say, "all right, if you don't want to sell it to us we'll buy it from someone else." This sort of piousness and self-righteousness that we're going to make a value judgment on governments and then determine the type of products to sell to them. This works to a certain extent. But in this case it's working against us because that mentality has also applied to the sale of machine tools.

We are in a difficult position. I represent a city that led the Nation in unemployment in 1980 at 27 percent, Rockford, Illinois. In a city of less than 140,000 people, we lost 100 factories and 10,000 highly skilled jobs. We can't get a four-axis machine into India. The Chinese bought 27 four-axis, five-axis machines in 1997. One of them came from the United States and the rest came from Germany, Switzerland, and Sweden. This is ridiculous.

We sit here in Washington passing all these rules, making all these value judgments upon who is the bad actor, and the very same device that we look upon as being sacrosanct in our hands is being sold by our friends, the French, the Italians, the Germans. Thus, what's going to happen is this: Our companies are going to move offshore. They'll just sell all their assets in the United States, go over to Europe, go over to Asia. They'll say, why should we stay in the United States where we can't even export these items. At the same time, U.S. companies get branded with the reputation of being an unreliable supplier. So they're just going to leave. For those who are interested and think the trade deficit is of significance, at least should take a look at our export policy. I think it's archaic and naive. Surely we know a weapon when we see one. A commercial satellite is not a weapon.

You could use binoculars and see 5 miles. You could attach military significance to almost anything. So here were are behind the eight ball, we are facing a 28-percent decline in orders for machine tools. The great economy that is surging along has such soft pockets it's unbelievable and that's right in the heart of our manufacturing capability. So not only are we losing manufacturing jobs, we're going to lose the whole high-tech market.

There was an article in the international magazine, Mr. Chairman, that's a consortium of the Washington Post and the New York Times, called the International Herald Tribune. About 2 months ago, there was an article talking about a group of European companies expressing concern over their market share of companies involved in high-tech. Because of the tremendous regulations and rules that the Europeans face with regard to labor, etc., that they're concerned that Americans will continue to monopolize high-tech. Well, I've got news for them, the United States is just going to give it to them. Unless we change these trade laws and come to a realization that a super computer is nothing more than a computer that does the same things only faster, and that there's nothing that critical about it except for the extreme high end, we're going to see a continuous erosion of jobs.

So I commend the Chairman for having this meeting. I think reference has already been made to the article that appeared today in the Washington Post about the reduction of production of American satellites. If we continue our present policy, America will no longer be in the business of manufacturing commercial satellites.

Chairman GILMAN. The gentleman's time has expired. Thank you.

I would like to recognize Mr. Kuykendall.

Mr. KUYKENDALL. Thank you, Mr. Chairman, for letting me sit in today. I have a statement that I'll leave for the record, but just a couple of other——

Chairman GILMAN. Without objection the statement will be made part of the record.

Mr. KUYKENDALL. And I also think that Washington Post article that we talk about today ought to be in the record as well.

Chairman GILMAN. Without objection.

[The prepared statement of Representative Kuykendall and the article appear in the appendix.]

**STATEMENT OF HON. STEVEN T. KUYKENDALL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. KUYKENDALL. Two or three just short little facts. In California we represent 60 percent of the total satellite production of the world; 60 percent of the whole world was built there. That's both communication and otherwise.

One of these satellites can be hundreds of millions of dollars each. It's like selling a 747 every time we sell one little satellite. We also represent the interests of the launch community because much of the launch community is headquartered there as well.

Now, we have got to figure out how to know what is good and what's bad and how not to give away secrets important to us, and it's got to be done quickly. I'm concerned that the changes that were made last year have not been implemented fully this year and I have already experienced job loss in my district for people building satellites that could not be exported or could not be exported on the timeline they were meant to be exported on and for the launch vehicles and they're now standing down some of these jobs.

I'm concerned about our product being technologically good, but I'm also concerned about how can we do that in a world marketplace. So we've transferred to your responsibility that job and we would like to hear from you on how you're doing it. Right now I'm having trouble seeing it being very successful.

Thank you for the time.

Chairman GILMAN. Thank you, Mr. Kuykendall.

I'm pleased to welcome John Holum, Director for the Arms Control and Disarmament Agency since 1993. On April 1st, 1999, Mr. Holum assumed the duties of senior advisor for Arms Control and International Security after ACDA was merged with the Department of State in accordance with the Foreign Affairs Agency Consolidation Act of 1998. John Holum was nominated for the position of Under Secretary of State for Arms Control and International Security and in that capacity will also serve as senior advisor to the President and Secretary of State for Arms Control, for nonprolifera-

tion and disarmament. He will also have the responsibility for coordinating security assistance programs.

We welcome Mr. Holum. Mr. Holum, before you commence, I may be called to the floor in a few minutes. We have several measures on the floor. I hope that you would note a concern I have.

On October 28th of last year, Bloomberg reported that a German firm, Daimler-Chrysler Aerospace was going to bar the use of various United States components for United States satellites due to what was described as an uncertain export license situation in the State Department. A variety of senior officials in the Administration seemed to relish the announcement. Under Secretary Reinsch at the Commerce Department was quoted in the same story as stating, "We opposed what the Congress did" in moving the authority of licensed satellites out of Commerce. The Daimler announcement, Under Secretary Reinsch said, "was just more proof that the transfer of satellite jurisdiction was in error."

In the same Bloomberg article, Deputy Defense Secretary Hamre was quoted as regretting the DASA directive in saying that "it was news to him." The article went on to quote David Oliver, Deputy Under Secretary of Defense for Acquisition as saying "that the Daimler directive would play a prominent role in the Pentagon's efforts to reform this State Department's export control process."

Two weeks later in the November 15th issue of Defense Week, Mr. Oliver was quoted as saying, the Daimler's directive is "a smoking-gun example of what's wrong with the State Department's system."

The Committee has recently come in the possession of an exchange of letters between the German firm, Daimler-Chrysler, and Pentagon officials in the days leading up to the Bloomberg article in which the Daimler-Chrysler directive was announced. Significantly, one of those letters on October 25th of last year to Under Secretary Ganzler at DOD from Dr. Manfred Bishop, the CEO of Daimler-Chrysler, was provided to the Pentagon on the day of a dinner hosted by Deputy Secretary Hamre for European industrialists, and the dinner is referred to in that letter. The letter from Daimler-Chrysler informs Dr. Gansler that DASA is going to issue their directive to bar American satellite supplies in light of a report he had received from Dr. Gansler's office considering the status of certain pressing licenses that are said to be mired in the State Department. The letter also expresses support for DOD's effort to change the State Department licensing system.

So despite the official surprise expressed by the Pentagon and the press stories that were to come out in the next week, it appears the top Pentagon officials were well aware of what was going on with Daimler-Chrysler and has been consulting with that German firm about their plans to change the State Department's licensing process. Indeed, they provided him with a report which encouraged Daimler's and Chrysler's announcement.

This Committee is intensely disturbed by that correspondence. On its face it appears it as if senior Administration officials had been secretly involving foreign firms in their initiatives to reform this country's export laws behind the back of the Congress, and in particular this Committee which had jurisdiction over those matters. If that's true, it's simply outrageous. What is particularly

troublesome is if this apparently DOD-engineered attack by Daimler-Chrysler were to spread to other European defense firms, thereby costing American jobs. DOD is playing with absolute fire and I hope that you would comment on that.

Please proceed, Mr. Holum.

**STATEMENT OF THE HONORABLE JOHN D. HOLUM, SENIOR ADVISOR FOR ARMS CONTROL AND INTERNATIONAL SECURITY, U.S. DEPARTMENT OF STATE**

Mr. HOLUM. Thank you, Mr. Chairman. I would like to reflect on some aspects of that statement and the questions for the record. But portions of it will certainly be addressed in my prepared statement. I've spent some time condensing that so we can get to further questions. But I very much appreciate the opportunity to appear before your Committee to discuss the vital topic of Munitions Export Controls Administered by the Department of State.

The challenge of advancing U.S. foreign policy and national security goals in an era of globalizing defense industries is a daunting one and one that the State Department is very much engaged in as is the Department of Defense.

As you and the Congress at large appreciate the regulation of arms for commercial export both in terms of licensing and enforcement and compliance requirements is a complicated and often sensitive process involving billions of dollars of U.S. exports. Defense export licensing has important implications for the national security, economic security, and foreign policy interests of the United States as well as the well being of thousands of American companies and their employees.

But let me say at the outset that the word "controls" in terms of export regulation and enforcement is not a dirty word at the Department of State. Control for the State Department is a reminder of two things; first, that we in Government have a well-defined responsibilities and authorities aimed at ensuring the defense trade is conducted in a manner that furthers U.S. national foreign policy objectives and national security interests.

Second, that U.S. companies has a substantial role in protecting U.S. security because we share some of our most sophisticated technologies with foreign countries and companies. The State Department is committed to giving the regulation and facilitation of responsible defense trade the attention and resources it deserves and to improving the efficiency, timeliness, and security with which you would carry out these functions.

The stakes are high. Our success or failure to manage the technology revolution and changes in international defense trade will have broad implications for various countries' economic prosperity as well as for their ability to support or threaten regional and international stability. It is imperative that our conclusions reflect broad U.S. foreign policy and national security goals, and not only defense industrial-based considerations.

I believe that the new shape of the part of my organization supporting this effort will make an important difference. Our conventional arms transfer policy aims to strike the right balance between support to our friends and allies, the U.S. defense industrial base, our democracy and human right objectives and our regional sta-

bility and security goals. We try to prevent the transfer of technologies that threaten regional stability or contribute to arms races.

A good example of this effort is our work on small arms and light weapons. Those items are low tech and inconsequential in terms of directly threatening U.S. national security. But consider the foreign policy implications, items that are as low-tech as machine guns, mines, mortars and grenades are responsible for most of the killing that's taken place in intra-state conflict since the end of the Cold War. In some regions small arms are weapons of mass destruction.

At the other end of the technology spectrum, our decisionmaking aims to protect the U.S. technological edge. We take into account non-proliferation objectives in an attempt to control the ultimate possessor and end user of U.S.-manufactured advance weapons. The risk of diversion of advance weapons into the hands or rogue states and non-state actors grows every day. We need to use all the tools at our disposal to guard against an upward spiral of conventional arms acquisitions with the stabilizing consequences.

Our most effective tool in this quest to date has been a comprehensive defense trade control system. In that state we remain convinced that the existing export control system provides essential tools for advancing U.S. foreign policy and must be preserved. The Department is equally mindful of the changes that have taken place in the defense marketplace as a result of globalization. We recognize that technology advances and political developments have altered the international environment substantially over the past decade. As a result it's imperative that we in the export control business proceeded as quickly as possible to acquire sufficient fiscal and human resources, streamline our processes, and adopt modern business practices.

The United States has its own strategic interest in arms transfers, namely to promote interoperability with our key allies and friends to help them improve their defense capabilities and to protect the viability of our industrial base. We recognize that defense industrial cooperation can help both U.S. and allied defense establishments spread the fiscal burden of new system development and production while helping allies improve their defense capabilities.

This is a significant element in the United States' Government's commitment to the NATO Defense Capabilities Initiative and the European Security and Defense Initiative.

Globalization poses tremendous challenges for the U.S. Policy Community. How can we effectively control items in this environment while enabling necessary technological cooperation. Many argue that defense trade today has become so globalized that controlling it is both hopeless and counterproductive. They would say that the United States should simply abandon our export control system as an outdated relic of the Cold War. Others contend that the U.S. defense trade control system is nonfunctional and needs to be rebuilt from scratch. They would suggest focusing only on controlling especially sensitive technologies while permitting essentially unrestricted commerce and so-called low-risk technologies.

In my view neither of those arguments is correct. A comprehensive export control system is needed now more than ever to protect our national interest in an international security environment that

is increasingly unpredictable. So I believe what is required is a reformist approach that recognizes and takes due account of the political military and technological realities of globalization.

However, it must be a system that can quickly arrive at the proper answer that will get the right equipment to the right place, on time. That is where were are headed now, modifying or adapting the system so that it remains viable in this era of globalization is a top priority for the Department, and one which we are committed to addressing in a timely but carefully considered manner.

Despite resource constraints, we are now in the process of examining munitions export controls to look for ways to expedite the review of licenses, especially for close allies. We are confident that it will be possible within the existing defense trade control system to facilitate defense industrial cooperation with our allies without sacrificing necessary controls.

We are already making progress in this effort. In the case of satellites, for example, despite some significant obstacles and despite the fact that we were instructed to treat satellites and their components as munitions, the State Department is doing better than some had predicted.

Since Congress transferred licensing jurisdiction for commercial satellites from the Commerce Department last spring, we've been processing license applications well within the 90-working day target date set in the Administration's report to the Congress. The average time for completing hardware licenses for ITAR category 15—that's spacecraft and associated equipment—is approximately 55 calendar days. For those licenses that are not interagency staffed, the average is about 21 days. We expect these processing times to decrease even further as a result of the 2000 State authorization bill which provides specific funding for a new commercial satellite regulatory regime, and I recognize your contribution, Mr. Chairman, to that effort. We welcome it.

Our Office of Defense Trade Controls is consulting with industry and will be proposing an appropriate mechanism in the near future. It will include expedited satellite licensing approval for NATO and major non-NATO allies. We are also strengthening our Defense Trade Controls Office. We have already received authorization from State personnel and financial management to hire an additional 23 licensing compliance and administrative staff; with strong support from Department management, we are dealing with this as a resource emergency. We hope to complete the first staffing phase by the end of this year, effectively doubling the number of licensing personnel.

The Department of State is also exploring a number of ideas to improve export licensing efficiency and effectiveness. This includes ideas in the general areas of umbrella approaches such as a global cooperative project license where there are programs covered by a government to government or defense agency memorandum of understand which along with related documentation sets forth detailed parameters for bilateral cooperation; special handling for cases associated with particularly important programs such as the defense capabilities initiative with NATO allies; streamlining of retransfers for NATO, Australia, and Japan; and extending the duration of certain types of licenses.

Additionally the State Department would support more extensive Department of Defense use of licensing exemptions that currently are provided in the ITAR. We believe that better use can further interoperability, coalition war fighting, and other national security objectives.

A major issue that the Chairman noted in his opening statement that is in the context of our work on licensing reform is whether to extend regulatory provisions like the Canadian ITAR exemption to countries willing to align their export controls with ours. Such a step would, in effect, exempt defined categories of defense exports to specific countries from USG licensing. That question raises for us many difficult, legal, regulatory, and policy issues. Strong arguments are being raised on both sides of the case.

Secretary Albright as chief manager of defense export controls under the AECA is consulting with her colleagues considering these issues before coming to a decision. Today's hearing is timely in that it will enable me to convey to the Secretary the views of the Members of the Committee, reinforcing what was stated in the letter from the Chairman and Ranking Member.

Underlying many of the reform proposals is a common appreciation that review of licenses supported by voluminous hard copy documentation can be cumbersome and that reduction of this material to an electronic format is highly desirable. The State Department is working hard with DOD to meet this goal. We believe that in the near future much of the information we collect and disseminate in the licensing process can be handled via electronic medium. Likewise, we're hotly pursuing the electronic collection of actual export shipment data under our direct shipment verification program and expect in the relatively near future to promulgate regulations that will institutionalize this program throughout the U.S. defense industry, also a recent legislative mandate that we welcome. This system's development will be a considerable boon to our analytical capabilities as well as our enforcement efforts.

Our aim in these efforts is to develop a plan for reforming and adapting defense trade controls that will serve all of us well through years to come. I need to emphasize that these are ideas under discussion within the Administration and that no final decision has been made. As soon as we have an Administration position we will consult with the Congress.

The basic premise of defense trade controls exercised by the Department of State, the premises are long-standing. My staff reminds me that Jefferson's Washington proclamation about the exportability of cannonballs dates back to 1793. One does not have to be a historian to appreciate the fact that the modern day controls have underpinnings in sound law, principles, and policy consideration that have withstood times of isolationism, interventionist undertakings, the Cold War, and the "new world order" following the collapse of the Berlin Wall.

While the workplace circumstances and global environment have changed rather dramatically, the basic requirement for defense export controls and the dedication that the Department of State brings to the task solidly remain. I have no doubt that this new examination of defense trade controls will meet critical require-

ments of U.S. friends and allies and to encourage legitimate commercial enterprise.

I look forward to working with the Committee both personally and through my staff on advanced technology and U.S. arms transfer decisions that look ahead to the future. Decisions that take account of the trends in the global security environment as well as in the global arms and technology marketplace. Many of these decisions are not easy. Finding the right balance often requires close interaction between Congress, State, Defense, the NSC, and industry. We want America to retain its predominance and we'll do our part to achieve that objective, thank you, Mr. Chairman.

Mr. ROHRABACHER. Thank you very much. As you can see the Chairmanship has short of shifted here. I don't want to think that Congress shifts its position at all at any time period.

Let me just state after listening to your testimony that I personally—from your testimony it would appear that you're being up front and this Administration is simply having trouble implementing something that Congress has mandated. I will have to say that from a distance it appears to me that some of the problems that we have been experiencing and the pressure that is now being generated, because of the problems in export are not simply a product of a slow startup in implementing what was the will of Congress, but—and I'm going to ask you to convince me that this is not what's happening with these roadblocks and these delays are not a cynical attempt by this Administration to basically hamper our export industries that are involved with the technology in order to provide pressure in order the undo a policy that they don't like.

In fact, it is clear that this Administration is dedicated to remaining in a relationship with Communist China that would have us believe that Communist China is our strategic partner and that they will do anything—anything in order to maintain that illusion. Including set up senseless roadblocks for the export of American technology to friendly countries in order to pressure us to have a system that will permit them to have an illusionary relationship with Communist China as a strategic partner, meaning so we can export to them as well.

Now, please, I'm open to be convinced that what we're not talking about is some cynical underhanded attempt as compared to an honest disagreement or an inability to actually implement what Congress has set down.

Mr. HOLUM. Mr. Chairman, I have to begin by saying that if you could see the hours of effort that are being exerted by Will Lowell and his staff, the professionals in the Department of State who work these issues to try to recruit additional manpower and try to sort out what are in fact a lot of complex issues, I don't think you would make that statement. This is a very difficult undertaking.

Mr. ROHRABACHER. Of course, I remember a hearing we had and the insistence by the State Department that there was no technology transfer going on that would improve the rocket capability of the Communist Chinese. I remember that very well.

Yet, it's been documented now that that was not the case. That the Cox Report went out as a bipartisan commission set forth, yes, there has been technology transfers that did improve their capabilities.

Mr. HOLUM. I would like to answer the rest of your first question before getting to the second one.

Mr. ROHRABACHER. OK. Go right ahead.

Mr. HOLUM. Yes, sir. But there is—when Congress returned commercial satellite jurisdiction to the State Department, it wasn't saying just that the State Department should license this, it said, you should treat commercial satellite as munitions. That put commercial satellites and specially designed parts and components of satellites into a system that pre-existed. We don't have two parallel licensing systems in the State Department; we have one that's designed to deal with munitions. Munitions are considered apart from commercial products.

There are no deadlines, for example, in commercial satellite or in munitions lists because we want to examine and have ample time to examine the intelligence problems, the regional impact, the human rights impact, a whole range of considerations. So this is a slow-moving process that satellites were moved into.

Now, in addition to that, there are—and industry has a basis for being concerned about this—we found when we got commercial satellites back in the State Department that a lot of issues or a lot of items, parts and components were being transferred license free by the Department of Commerce, they had been put on the general list that doesn't require a license. When they came back to the Department of State, they all require a license because they're munitions. So in cases where no license was required before, particularly for parts and components, now licenses are required. That delays things that otherwise could have gone freely.

Mr. ROHRABACHER. What's taking so long about creating a list of countries in which, as you mentioned in your testimony, that you are moving forward——

Mr. HOLUM. The list of countries is very easy. We know what the list is. It is Nato and Australia and Japan. But then what, do we just exempt everything? Or do we try to set up a system that expedites exports to those specific countries? Because you have other concerns if they're munitions. For example, the UK has no controls on re-exports from products in their country; can we harmonize their system with ours? In other words, it's more complex than it sounds. We are diligently engaged, I guarantee you, in what I'm sure the Committee will find to be a very productive effort to come up with new procedures both for allies and generally.

Mr. ROHRABACHER. Let me just say, the frustration on my part—and, again, I wanted to give this policy a chance to succeed and I saw it was failing. But then to sit and watch and to complain about the transfer of technology to a potential hostile power, Communist China, and for a matter of years complaining about this and having a blase response from the Administration to this great—what I consider to be a great threat to our national security, and so did the Cox Report, and then—and now, asking the other countries that are friendly countries be able that we free them up at least so that companies like this in California can send things over to Belgium, for Pete sakes, but yet there doesn't seem to be any, you know, any real energy being put into freeing up—on one side you're letting technology flow to an enemy, or at least this Administration has, or potential enemy. On the other hand, it's sort of blase about the

restrictions now that are being in the way of sending this to a friendly country.

Mr. HOLUM. I'm glad you raised that again because it was the second question you raised.

Mr. ROHRABACHER. Go right ahead.

Mr. HOLUM. And you suggested that I said no technology had flowed to China. I said we reported to the Department of Justices cases where we thought that had happened, and those cases are under investigation. So I think you're—I did not ask for commercial satellite licensing to be returned to the Department of State. I thought it could be handled with the enhanced monitoring and strength and controls in the Department of Commerce and we wouldn't be in a lot of this difficulty. But I didn't say that there hadn't been any problems.

Mr. ROHRABACHER. OK. The red light is on. Mr. Berman.

Mr. BERMAN. Mr. Chairman, I'm quite confused.

Mr. ROHRABACHER. All right. So am I.

Mr. BERMAN. You're saying that we should speed up the licensing of munitions to our allies and that the fact that we aren't doing that is a cynical effort by American companies who make these products to put pressure on the Administration and on Congress to weaken the law so that we can truly implement our desire to send munitions list items to China?

Mr. ROHRABACHER. To undermine the development of a two-tiered system in which China—if we do not have a two-tiered system, China is put on the same level as our NATO allies. Yes, that's exactly what I'm suggesting.

Mr. BERMAN. Wait a minute, tell me if you disagree with a couple of assertions. That with whatever weaknesses we have, No. 1, there's no country that has a more rigorous export control regime with respect to China than the United States and that every single one of our allies is far more willing to sell far more quickly far more things to the People's Republic of China than we are. The notion that somehow by letting everything go to our allies we can then maintain a dual standard and not assume that our allies will re-export or companies in those countries will re-export anything to China is absurd. If anything, the whole purpose of export licensing to our allies is not because of what our allies will do with them, it's because of the danger of re-export by our "allies" and we can start with the French if you would like——

Mr. ROHRABACHER. Would the gentleman yield to that point?

Mr. BERMAN [continuing]. To countries that we want to have a tougher control with.

Mr. ROHRABACHER. Would the gentleman yield to that point?

Mr. BERMAN. Sure.

Mr. ROHRABACHER. I don't find there to be any threat of transfer of technology. When we sell a satellite and permit a satellite to be launched on a French rocket for Belgium or Germany, or whoever, or Japan, but, yes, I think that there is a major concern now that we've learned that when you try to permit the Chinese to launch American satellites they end up with having their rockets and their missiles upgraded in their capability and their reliability which is what the Cox Report found.

Mr. BERMAN. Wait, wait, wait.

Mr. ROHRABACHER. That's what this is all about.

Mr. BERMAN. Let's dissect this a little bit. I don't think it was the U.S. Government that transferred missile technology to the Chinese. I think it was called, American companies tired of watching their satellites land on the ground shattered because of inadequate launches that made those transfers.

Second, I personally believe you can transfer commercial satellites under proper safeguards even to the Chinese and the one danger you get from that——

Mr. ROHRABACHER. That's what I was told all right——

Mr. BERMAN [continuing]. But the one danger you get from that is you enhance the Chinese capability to make launches because the more launches they try, the better they're going to get at making launches. The only problem with not providing them with the commercial satellites is you don't solve that problem because other countries provide them with the commercial satellites to make those launches and so they improve and enhance their rocket capabilities using other countries satellites and at the cost of American satellite manufacturers.

The question I wanted to get into was my concern that the Canadian model would become the model for other of our allied countries and that we would charge huge exemption holes in exports—our allies without them having adopted our same export controls with respect to re-exports of these items. I guess I'm wondering what the status of that is within the Administration and what are the constraints that we're going to ensure are in place before we would make such an exemption?

Mr. HOLUM. Well, first of all the Department of State and the Department of Defense have been engaged for some months in an effort to sort out new procedures for licensing. I've outlined some of those in my statement, umbrella approaches that would allow basically a broad project type or endeavor type license and then you wouldn't have to get individual licenses within that until the project was completed, or unless the character of the project changed. So it would eliminate a lot of the licenses. This would be focused on allies, NATO allies, Australia and Japan. When that process is very near to completion we'll be consulting with the Committee about it in the near future.

Mr. BERMAN. Would what those countries do with those items play a role in our deciding whether to give that kind of project exemption?

Mr. HOLUM. Of course, yes. But this is a case where we—the structure would specify if, at all, for example, retransfers were allowed, and if they were, to what countries.

In the context of that, some agencies or one agency has argued for an exemption—Canada-type exemptions for additional countries, close allies, from arms export controls generally. That process—any department can put an issue on the table for interagency consideration—is not completed. So we don't have the definitive administrative position, but let me tell you what some of my personal concerns are about that.

The Canada exemption was established for a specific purpose. It was back and forth defense trade. The defense industries of the United States and Canada are integrated and we have a contig-

uous border. The purpose of license-free exports to Canada and vice versa was largely for their manufacturing of those components or technology into products that came back to the United States.

If you're going outside the United States-Canada defense perimeter, you have a circumstance where the purpose would be to export elsewhere. In cases where they don't have the same re-export restrictions that we have, a point that you alluded to earlier, it would be very hard under circumstances like that to make it work in a European context, for example, where they're trying to build a common defense industry. How could one of them have special access and the others wouldn't? What kind of political problems do you create when one gets special access and others who have less strong export control systems don't. We've, in the course of considering this issue, defined the kind of parallelism that we'd require in export controls for a country that had license-free relations with the United States. There is no country that I know of that has anywhere close to that kind of detailed system that would be sufficient to be reliable, at least from my perspective. You also have the enforcement problem. If there's no paper trail, then how do you track violations, and we've heard concerns from other agencies including Justice of the difficulties with a totally license-free environment of enforcing against violations. So those are some of the policy and legal concerns that I raise that have to be——

Mr. BERMAN. When I listen to you talk, I feel comfortable as long as you prevail. This is the State Department's decision in the end; isn't it?

Mr. HOLUM. Yes.

Mr. BERMAN. Absent the President giving a direction. I mean, this is not a DOD decision, this is not a Commerce, this is a State Department.

Mr. HOLUM. This is not something that can be done without the State Department's approval. Unless the President, as you say, makes a different choice.

Mr. ROHRABACHER. Mr. Manzullo.

Mr. MANZULLO. Thank you. I don't know if you're going to be able to come up with a solution that Mr. Rohrabacher wants. But to have a two-tiered system saying that we're going to sell our commercial satellite here, but we're not going to sell it here, or our good ally here has no re-export policy, and they could turn right around and sell it here. Isn't the issue that as long as this is not a bomb or a missile, an export license should be granted? Isn't the issue as simple as something as readily available to a foreign country from another source, that if it's not obviously something explodable, or of that nature, that a license should be granted and summarily?

Mr. HOLUM. To China you're saying?

Mr. MANZULLO. That's correct. Or the equivalent of the tier-three countries with regard to computers.

Mr. HOLUM. Well, that's something that is very hard to do when an item is classified as a munition.

Mr. MANZULLO. Therein lies the problem. You didn't ask for the problem, Congress gave it to you.

Mr. HOLUM. Right. But what we are striving for is to develop a system, including protections against re-exports. Let me say there

are two different endeavors underway at the same time. One is for defense trade generally with allies and that would not just be limited to commercial satellites, it would be across the board to expedite the process. That would facilitate co-production and joint ventures and international consolidations and so forth. There's a separate effort underway to address the particular problems that are associated with satellite-related sales to allies.

I don't think we have the flexibility within the law to say, as long as China can get a satellite from France, it will be easily available from the United States. Our policy is to continue to license satellite launches in China and we'll continue to do that. But we want the facilitate the kind of trade in components, in insurance, the various, the problems that have become most acute on the basis of the transfer. Issues where our system is not well set up in the Department of State because it's a munitions system to deal with other——

Mr. MANZULLO. Do you deal with bombs and grenades and explosives?

Mr. HOLUM. That's what we deal with. But again, we've been told that commercial satellites are like things that explode. They go through the whole panoply of considerations that apply to munitions. What we are trying to do is adapt our system to deal with the satellite problems. One of the most compelling ones to put the problem in acute relief is that you can have a satellite that is built in the United States, launched on a United States booster, in the United States, and it still requires export licenses on the munitions system. Why is that? Well, because they have to get insurance. Most of the insurance for satellite launches is underwritten outside of the United States. That requires a transfer of technology to satisfy the underwriters that the system is going to work. Well, that's one of the problems that we're trying to deal with in this specialized satellite regime that we're in the process of completing.

But keep in mind there's something that's very important to recognize here. All of these problems are attributed to the State Department's licensing system. The fact is that the aerospace industry as a whole and aerospace exports in military aircraft, in missiles, that business is growing very dramatically—still growing very dramatically.

All of those regimes are subject to our licensing requirement. If our licensing system was so screwed up that nobody could count on it or get a license, then wouldn't those same areas—those additional areas also be in trouble? So I don't accept the premise that this is all related to licenses or to the State Department system. I will say that because of the problem of components which Commerce required no license at all for in many cases, and which are now licensable by the Department of State, there is a genuine problem; and that's one we're addressing again with this targeted approach to try to exempt certain aspects of the satellite business.

Mr. MANZULLO. Well, I would hope that you could come up with such a regime. If you don't, I would not be surprised, because I don't think it can be done. We're mixing missiles with satellites, which is the same as apples with oranges here. I was one of 17 Republicans who voted against the ban of the sale of communication satellites to the People's Republic of China. I'm no soothsayer or

prophet, but when the Commerce Department turned down the export license for Hughes, which was worth $400 million, Hughes not only paid a huge fine; but Alcaltel sold the Chinese the very same satellite. I scratch my head trying to figure this out. This doesn't make sense. You've been given involuntarily a task that I don't think that you can do. I say that with the greatest amount of respect because I know of your background. But I don't think there's a way that we'll ever be able to come down to have a system of licensing when in fact the very object you're trying to license is readily available from "one of our allies".

Mr. HOLUM. Well, maybe not, but we're going to give it our best shot.

Mr. MANZULLO. Absolutely. I appreciate it.

Mr. HOLUM. And I think what we come up with will go a long way to mitigate the concerns.

Mr. MANZULLO. Anything to help the sales is fine. Thank you very much. I appreciate your coming.

Mr. HOLUM. Thank you.

Mr. ROHRABACHER. Mr. Kuykendall.

Mr. KUYKENDALL. I've got a couple of more just specific kind of questions. Some of our products—in fact it was touched upon in that Washington Post article, one company wants to sell a product and it requires an export license, the same component from another company, maybe it's a heat exchanger, doesn't require the export license, what are we doing to try to clean up that system where you'll have pieces of—if they take it apart and sell them individually, well, some of the pieces are—don't require licenses and at other times they do require licenses, Commerce will say go ahead and State will say stop.

Mr. HOLUM. I think what you're referring to and it is a very large problem, there's the question of space qualified parts and components. When we started out the process, the transfer, we made—we undertook to make a decision on 16 categories of space qualified items much more quickly than we've been able to do it because it's proven to be more contentious and more difficult than we thought it would be.

A number of companies would come in and say, we're not sure where this belongs, and we would say, you did the right thing, it needs a license and then put it in the process. Whereas if they go to Commerce——

Mr. KUYKENDALL. So the State Department is the arbitrator of dual-use technology and decides whether it goes to Commerce or it goes to State?

Mr. HOLUM. No. For these items it is a bilateral State-Commerce process to work it out and we've—but in the near term until we do work it out, we've concluded that those space-qualified items remain under the—or the disputed subjects remain under the Commerce Department jurisdiction. So I think that general problem has been temporarily addressed while we sort out the details.

Mr. KUYKENDALL. Another issue where some of our satellites, I believe, require like 10 or 15 different licenses to export one. Have you looked at programs to consolidate that into like a single license so that you don't have so many different lines of processing going on to kind of thin out the number of pounds of paperwork we have

to shuffle? And the reason I put this in, especially when you're talking about things like communications, television kind of satellites. I mean, these satellites are to the point, I mean, you could say the Chinese Army uses them, yes, because they pick up the phone and talk on the telephone. Everybody in the world uses them because they pick up a phone. That kind of technology, for that kind of equipment——

Mr. HOLUM. Our basic approach and I may want to get back to you with more—I should get back to you with a more detailed answer, but our basic approach is to require as few licensing documents as we can manage. We don't want to handle more paper than we have to. What usually occurs is that the project or the export will change over the course of license submission so that additional licenses are required for additional features. Is that basically right?

We're also trying to thin them down more deliberately with our allies.

Mr. KUYKENDALL. I mean, how many licensing officers are assigned to a satellite case.

Mr. HOLUM. It would depend on the complexity.

Mr. KUYKENDALL. No, in that department, the ODTC?

Mr. HOLUM. You mean overall?

Mr. KUYKENDALL. Yes, how many are in there?

Mr. HOLUM. I think we have currently 43 licensing officers.

Mr. KUYKENDALL. Has it been enough to get them done?

Mr. HOLUM. There are 43 overall. Well, no, it's not and we are, with the additional funding that we've received from the Congress are, as I said in my statement, engaged in a crash effort to hire and advance more people because that's one of our major concerns. We don't have enough people. We also have been plagued with the problem of the people in our structure are at lower grades, or have tended to be at lower grades than in other departments or in industry. So once they get trained and get really good at their jobs they become very attractive for the Department of Defense or for private industry.

Mr. KUYKENDALL. To me those are management issues that need to be worked out within the Department and make sure we get satellites exported with the right license in a timely fashion.

Mr. HOLUM. That's right.

Mr. KUYKENDALL. What are you doing—oh, never mind, time's up.

Mr. ROHRABACHER. Go ahead.

Mr. KUYKENDALL. What are you doing on the launch vehicles? We've had failures both here as well as overseas. What are you doing to try to ensure that we've got some flexibility in launch vehicles that are satellite manufacturer? Right now, you know, our satellite manufacturers can put a satellite in space with a whole lot of people's launch vehicles. Is there any flexibility that you all are trying to build in to how we can put it up there?

Mr. HOLUM. You mean by encouraging the domestic launch industry?

Mr. KUYKENDALL. I mean, does the manufacturer of the satellite always have to bring you a launch vehicle and make it all one package in order to get it, or can they bring you a satellite and say,

hey, look, I want put this over there, why don't you tell me which satellite launcher I can use? Or how does that work with you guys?

Mr. HOLUM. We don't set up business transactions, we deal with what's brought to us. But, you know, we're open to a variety of different arrangements.

Mr. KUYKENDALL. So if they bring you a French one, you'll look at a French launch vehicle to go with a United States satellite or a Chinese launch vehicle to look with the United States satellite or——

Mr. HOLUM. Yes.

Mr. KUYKENDALL [continuing]. Domestic launch vehicle to look at a U.S. satellite.

Mr. HOLUM. If it's a domestic launch vehicle it probably wouldn't come to us unless it was in insurance.

Mr. KUYKENDALL. The only problem is, that's just the point, it's going to be insurance or it's the satellites for Indonesia.

Mr. HOLUM. Right.

Mr. KUYKENDALL. We've got to get the export license and we have to export license even our own domestic launch capacity?

Mr. HOLUM. On some occasions depending on the insurance.

Mr. KUYKENDALL. I mean, I'm not on this Committee, but I would certainly hope from all the questions you're getting here that you would be thinking long and hard about the kinds of either—I hate to use the word "relaxation" but the kinds of guidelines you need to have approved by Congress if that's where they need to come from, it sounds like some of them may need to since we dictated some of this transfer of this tightening, what kind of guidelines you need to make some of these what just seem like ludicrous decisions be made easier. Because I don't want our technology being transferred anymore than anybody else does, but when you have domestic rockets and domestic satellites that can't be exported because some foreign insurance company can't issue a policy because they can't read the documentation, they're not qualified to, I mean, those kinds of things, to me, that's just how do you make business function right and we shouldn't be the roadblock, we should be the facilitator.

Mr. HOLUM. And I want to underscore, it's not that you can't do it. If you have to get a license, you get a license, and we grant licenses very quickly. In cases that are considered inside the Department of State over the last 6 months, we've been turning them around in 17 days, if it's not something that has to be staffed out to other agencies. That's pretty quick. For cases that have to go outside the Department of State, it's 51 days or 55 days, that's over the last 6 months.

Mr. KUYKENDALL. So one of these where I've got a domestic launch vehicle and a satellite, but I've got to go outside because of insurance, that's a 51-day——

Mr. HOLUM. That would almost certainly be inside the State Department, but it depends on the circumstances. But it turns around pretty fast.

Mr. KUYKENDALL. I'm real concerned that we've got a major commercial product and products that we hold the edge in the world on and we've now found ourself bollixed up and not being able to properly control it, and at the same time export it. It sounds like

it's much more a management issue within the State Department or within Commerce, or the combination than it is within Congress. If it's our problem, give us a list of what you need changed so we know what it is we have to work on, and then we can figure out if it's our problem or not. It may not be.

Thank you.

Mr. ROHRABACHER. One last round of questions if I can, seeing that I'm the Chairman. I'll take advantage.

Mr. HOLUM. Do whatever you want.

Mr. ROHRABACHER. Does the State Department still insist on calling China our strategic partner?

Mr. HOLUM. I don't know the answer to that. I'll take it for the record, because I have not been in the business of applying labels to our relationship so much as trying to make it work.

Mr. ROHRABACHER. So you're not—you don't know whether or not the official position of this Administration is still that China is our strategic partner or not?

Mr. HOLUM. I can tell you that——

Mr. ROHRABACHER. This is phenomenal, you're——

Mr. HOLUM [continuing]. The United States is making major efforts to enlist China's cooperation and partnership, if you will, on a number of strategic issues including the ones that I work on most aggressively which are non-proliferation.

Mr. ROHRABACHER. But you're hot sure whether or not the Administration is—is there a reason for you to believe that the Administration has changed its position?

Mr. HOLUM. No, I do not think so.

Mr. ROHRABACHER. All right. So as far as you can tell, the Administration still is committed to the policy of characterizing our relationship with this regime in Beijing as a strategic partner?

Mr. HOLUM. As I said, my interest is in trying to enlist their partnership in areas where I think their behavior has a major impact on our security.

Mr. ROHRABACHER. Right. As compared to recognizing that perhaps trying to enlist the support of someone who is incapable of—an adversary is not someone that you're going to try to enlist as a partner. An adversary you're going to treat as an adversary and not try to treat as a partner.

Mr. HOLUM. I like that question because it is an important subject.

Mr. ROHRABACHER. Yeah it is, I think it's the basis of what we're talking about today.

Mr. HOLUM. But what I have tried to avoid in the experience that I've had in this job is the conclusion that once you've decided who are the good guys and who are the bad guys, the job was done. Because you have to get the bad guys to behave in ways that serve your security. So you still have to engage with them.

Mr. ROHRABACHER. But until they actually change the way they behave, they're still the bad guys; right?

Mr. HOLUM. Well, that's what I resist, is saying there are good guys and bad guys. I think what the key is to find ways to cooperate across the range of countries——

Mr. ROHRABACHER. That's the problem right there——

Mr. HOLUM [continuing]. In order to get to——

Mr. ROHRABACHER. I think that's what this whole discussion is about. There are people who don't want to admit in the world there are good guys and bad guys. Not to say that you can define, everything is so definitive, but there are good guys and bad guys and we shouldn't be treating everybody across the range as if they're similar. That is not the case.

Mr. HOLUM. Nobody——

Mr. ROHRABACHER. That's what I tried to point out earlier.

Mr. HOLUM [continuing]. And nobody does that. What we try to do——

Mr. ROHRABACHER. I thought that's what you just described?

Mr. HOLUM. No, you try to engage whatever countries you are working with to get them to take steps that are consistent with U.S. national interests. Concluding that they're a bad guy or a good guy doesn't get you very far in doing that. Well, obviously you do it with your eyes open.

Mr. ROHRABACHER. Yeah, I would think that in a world where there are some people who mean us harm and disagree with every basis of our system that our—for example, the world's worst human rights abuser who happens to be Communist China, or a power that is belligerent and says things like, we might nuke Los Angeles if we get in a conflict with us over Taiwan, that you might want to recognize that as being significant in how you deal with them as compared to, well, should we sell a satellite to Belgium or not?

Mr. HOLUM. But does your analysis mean that if I can persuade China that they should not engage in nuclear cooperation with Iran I shouldn't do it?

Mr. ROHRABACHER. I guess it just means you treat people differently and you wouldn't really expect to be dealt with on a, you know, let's say, up front basis as you would with a democratic society when you're dealing with the world's worst human rights abuser.

By the way, the President just signed the Code of—or has signed, I should say, the Code of Conduct, which I am co-author of, saying that the United States should not be selling weapons to dictatorships. Is your analysis that this also includes Communist China?

Mr. HOLUM. The Human Rights report, I'm not an expert in that field, but I think the Human Rights report that just came up to the Hill recently had some pretty tough language about China. We certainly have been outspoken about their human rights behavior.

Mr. ROHRABACHER. And earlier on when I talked about how the testimony that we had earlier, remember a couple of years ago when we got in a little confrontation on——

Mr. HOLUM. I don't recall a confrontation.

Mr. ROHRABACHER [continuing]. Missile technology transfers, are you suggesting that your testimony earlier during hearings here on that issue in no way contradicted the Cox Report? You were not in contradiction to the Cox Report when you testified about this?

Mr. HOLUM. You mean my previous testimony?

Mr. ROHRABACHER. Yes, your previous testimony.

Mr. HOLUM. I can't remember every detail of the Cox Report. I don't think we agreed with all of its conclusions and recommendations. But I've not, to my knowledge said anywhere that no tech-

nology has gone to China as a result of this launch failure investigation. That's a question——

Mr. ROHRABACHER. I don't think we were concerned about no technology, we were concerned about whether or not Communist Chinese rockets or their military counterpart, you know, weapons carrying military missiles were in some way improved in terms of their capabilities or the reliability. Isn't it fair to say that as the Cox Report found, that due to our relationship with China which we were expecting the Administration to oversee and obviously there was something went astray because isn't it now fair to say that there was a transfer of technology that made their rockets more reliable and more effective?

Mr. HOLUM. The problem I have with that question is that there are cases that are still under investigation by the Department of Justice. We were then and are now precluded from discussing the content of those cases.

Mr. ROHRABACHER. Well, when my friend, Mr. Manzullo, mentioned he didn't understand about, you know, why a satellite—you know, why there would be this restriction on satellites, I'm sorry that he's not here because it doesn't have to be—a missile doesn't have to be armed with a weapon that explodes and kills millions of people to put America in jeopardy.

Mr. HOLUM. Absolutely.

Mr. ROHRABACHER. I mentioned in my opening statement about command and control satellite that just went up, I think it was last week, in China that was called a multiplier—a force multiplier for the Chinese, do you know if that rocket had any benefits from our relationship over the years with China? In other words, the Chinese abilities to deal with Hughes, and Loral and other American companies perhaps helped that rocket go up and be successful?

Mr. HOLUM. I don't know.

Mr. ROHRABACHER. But it's highly likely, isn't it?

Mr. HOLUM. Highly likely?

Mr. ROHRABACHER. Yeah, it is highly likely that that rocket—there was a 50 percent—at least my staff seems to think that there was a long march 3A that it was a 50 percent failure rate until after their consulting with—after their dealings with American companies and now it has a very high, if not a 100 percent success rate?

Mr. HOLUM. You're testing my memory beyond its capacity here. I looked at those things very closely when we were testifying on that subject.

Mr. ROHRABACHER. But the satellite itself, the command and control satellite itself could—permitting them to coordinate their antiaircraft systems and their missile systems and their other systems in the Taiwan Straits, that could, if we ever get into a confrontation, that could result in the death of hundred, if not thousands of American lives if we choose to confront an act of Chinese aggression there, couldn't it?

Mr. HOLUM. As I have said, it is our policy in appropriate cases, and not in every case, because as you've heard, we turned down the Hughes license that included MTCR-related materials, but it is our policy to approve satellite launches in China on a case-by-case basis appropriately safeguarded including monitoring by the De-

partment of Defense. But one of the things we would consider in any licensing decision is the military utility of the satellite itself as distinct from the launcher. The launcher as you and I both know is essentially the same as an ICBM.

Mr. ROHRABACHER. Well, I have the sneaking suspicion that the technology that we would find technology in this command and control satellite that looks suspiciously like American technology, technology that our taxpayers paid for. Now that their command and control satellite is up and I have a sneaking suspicion that the long march 3A rocket might have a nose cone that is designed the way the Hughes engineers described to me how they were helping ensue that the satellite launches were going to be effective and they were actually going to be able to launch the satellite because they redesigned the nose cone that covered the satellite which also can, of course, cover up a satellite that's a command and control satellite. Or can cover up a weapon that would incinerate millions of people in Los Angeles, for example. This is a very serious issue and I think—and, again, I think there's an honest disagreement as to how you approach the problem of China, and I think that's the basis of all these—of all the confusion. I think that's the basis of why some people can export and can't export, and why the problems right now; because the Administration is trying to juggle this strategic partnership concept in a real world. It's an illusion in a real world, and that's what is causing our problems here today.

I know that would require about an hour's worth of discussion to understand exactly how that all works together, but that's what I perceive. I think the American people will be making their decision this year as to what direction they want to go.

Mr. HOLUM. That's certainly true. We can agree on that one point.

Mr. ROHRABACHER. Yes.

Mr. HOLUM. First of all, I do agree with you that there is an honest difference over how we approach China and it affects—there are people who think China is—if we just trade with them enough—in enough——

Mr. ROHRABACHER. Right. Sure.

Mr. HOLUM [continuing]. In enough——

Mr. ROHRABACHER. They'll become better. It's hug a Nazi, make a liberal, that's what I——

[Laughter.]

Mr. HOLUM. And there are others who think closer to your point of view. What I've been moved by in the course of my service is the proposition that China has to be a part of the solution. I don't have any illusions about China's intentions or character. But it is also the case that China by itself, leaving aside anything that the United States provides, has nuclear, chemical, biological, ICBM capabilities. To the extent that we are going to be successful in controlling the spread of those technologies to more countries that are even more dangerous to us than China is, then we need to have China as part of the solution.

Mr. ROHRABACHER. Absolutely. And China, I just was watching the History channel the other night and it talked about how Hindenberg gave power to the Nazis and it was important, the significance of that act, of just giving that power over to——

Mr. HOLUM. I saw the same program.

Mr. ROHRABACHER [continuing]. I think that China is not the Communist party that controls Beijing. Communist China is Beijing and that cliche that runs that country. China itself is all of these millions of people who are our best allies and friends, the Chinese people. China itself is—you're right, that's got to be part of the solution. Unfortunately that means that democracy and China are at least a loosening up of those controls and——

Mr. HOLUM. I hope so.

Mr. ROHRABACHER [continuing]. That's the real solution here and not us being armed to the teeth and whatever and acting like they're enemies.

Mr. HOLUM. But we can't wait for a regime change to address proliferation.

Mr. ROHRABACHER. Well, I'm going to leave you with that last word and, again, thank you very much and I know that I come on real strong at times, but I think it's been a good exchange.

Mr. HOLUM. Thank you very much.

Mr. ROHRABACHER. Thank you. The meeting is adjourned.

[Whereupon, at 3:43 p.m., the Committee was adjourned to reconvene subject to the call of the Chair.]

# A P P E N D I X

MARCH 28, 2000

Opening Statement of Hon. Benjamin A. Gilman
Munitions List Export Licensing Issues
Tuesday, March 28, 2000

The purpose of today's hearing is to hear from the Administration on the issues related to defense exports. To present the Administration's views, we are pleased to welcome the Honorable John D. Holum who is the Senior Advisor to the Secretary of State for Arms Control and International Security.

Mr. Holum, as you may be aware, when the Secretary was before the Committee in February I raised with her my concerns about the recently signed Declaration of Principles for Defense Equipment and Industrial Cooperation between the U.S. and U.K.

That agreement, which as you know, is not legally binding, was negotiated between our Department of Defense and the British Ministry of Defense. Neither the State Department nor any other U.S. agencies with equities in this document were involved. I expressed my particular concerns about the language on export controls in the declaration.

I said then, and reaffirm now, that I do not support exemptions for munitions licenses for the U.K., or any other allied country for that matter. In fact, Mr. Holum I trust that you are aware of a March 16th letter to the Secretary signed by myself and Mr. Gejdenson as well as by Senators Helms and Biden which, among other things, we make clear our united and adamant opposition to any proposals extending exemptions to allied countries.

I expect to hear today in rather clear terms your position on exemptions. In addition, our letter makes clear that we expect full consultation by the Administration on those initiatives involving defense exports that you expect to unveil at the May NATO ministerial meetings.

The U.S.-U.K. declaration is but the latest manifestation of the so-called globalization efforts of our good friends over at the Pentagon. I have significant reservations about these efforts, particularly as they infringe upon our shared responsibilities to ensure that the spirt and the letter of the Arms Export Control Act is met.

Finally, let me say that I expect that other Members will raise with you today pointed questions about the efficiency of our munitions licensing process. Your testimony addresses this issue and we look forward to hearing you out.

I want to say that I share those concerns and have therefore worked hard to find you additional resources over the past two fiscal years. But you need to do more to ensure that the right things get to the right people, quickly.

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House of Representatives

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COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
AVIATION
WATER RESOURCES AND ENVIRONMENT

## Statement for the official record by Representative Steven T. Kuykendall, visiting Member of the House International Relations Committee, regarding the Hearing on Munitions Export Licensing

**March 28, 2000**

Mr. Chairman, thank you for holding this hearing and allowing me to join in this important discussion. California is responsible for over 60 percent of the world's satellite production. In my district alone, several satellite and component manufacturers rely on the ability to sell their products on the global market. In 1997, the United States (U.S.) commanded 74 percent of the major international satellite market leading the world in technological research, satellite manufacturing, and space launch capability. Today, the U.S.'s market share has fallen to 52 percent.

On March 15, 1999, the U.S. Department of Commerce transferred its authority to grant export licensing of commercial satellites and technical components to the U.S. Department of State's Office of Defense Trade Controls (ODTC). Congress made this jurisdictional change to protect our national security interests and to ensure that our technologies are not misappropriated by other – possibly hostile – nations. In the transfer to State, we have introduced a lengthier approval process – stemming in part from an initial failure to provide funding for State to hire necessary staff. While fewer sensitive technologies have been exported, we have also prevented the sale of less sensitive technologies made by U.S. companies and greatly lengthened the time to process exports to our allies. Last year, language was added to the Fiscal Year 2000 Omnibus Appropriations Act that directed the State Department to develop expedited export licensing procedures for North Atlantic Treaty Organization (NATO) nations and major non-NATO allies. I am concerned that the State Department has not implemented this relief provided by Congress.

The issues surrounding satellite export controls are complex and far-reaching. This hearing provides an important forum to discuss this issue and begin the dialogue needed to address the problems facing our aerospace manufactures. Congress needs to find a way to balance national security concerns and ensure that the U.S. remains the world's leader in aerospace manufacturing and exporting. I look forward to working with the International Relations Committee on this critical issue.

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**STATEMENT OF SENIOR ADVISER JOHN D. HOLUM**
**BEFORE THE HOUSE INTERNATIONAL RELATIONS COMMITTEE**
**MARCH 28,2000**

Thank you very much, Mr. Chairman, for the opportunity to appear before your committee to discuss the important topic of munitions export controls administered by the Department of State. From my perspective, the challenge of advancing U.S. Foreign Policy and National Security goals in an era of globalizing defense industries is daunting. As you well know, it has enormous currency in my building as well as in DoD.

The questions before us today are: How can American advanced technology transfers best support national, regional, and international security goals? What is the "correct" amount of technology transfer?

As you and the Congress at large appreciate, the regulation of arms for commercial export --both in terms of licensing and enforcement of compliance requirements -- is a complicated and often sensitive process involving billions of dollars of U.S. exports. Defense export licensing has important implications for the national security, economic security, and foreign policy interests of the United States, as well as the well-being of thousands of American companies and their employees.

Let me say at the outset that "controls" in terms of export regulation and enforcement is not a dirty word in this Administration. "Controls" for the State Department is a reminder of two things. First, that we in government have well-defined responsibilities and authorities aimed at ensuring defense trade is conducted in a manner that furthers U.S. foreign policy objectives and national security interests. Secondly, that U.S. companies have a substantial role in protecting U.S. security because we share some of our most sophisticated technologies with foreign countries and companies.

The State Department is committed to giving the regulation and facilitation of responsible defense trade the attention and the resources it deserves, and to improving the efficiency, timeliness and security with which we carry out these functions.

Three principal concerns dominate discussion of commercial arms sales: (a) the ability of the State Department to administer effectively munitions export licensing; (b) concerns about diversion or unauthorized use of U.S. defense exports; and (c) the desire among some quarters, U.S. and foreign, private and public sector, to lessen or relax current controls.

The stakes are high. Our success or failure to manage the technology revolution and changes in international defense trade will have broad implications for various countries' economic prosperity, as well as for their ability to support -- or threaten -- regional and international stability. The proper and timely resolution of this problem is critical. It is imperative that our conclusions reflect broad U.S. foreign policy and national security goals and not simply defense industrial base considerations. I believe that the new shape of the part of my organization supporting this effort will make an important difference.

State Department's Legal Authority

Let me begin where the Administration's authority begins -- with the law. The President's statutory authority, which has been delegated to the Secretary of State for arms transfers and retransfers derives from the Foreign Assistance Act and the Arms Export Control Act.

These laws stipulate that, under the authority of the President, the Secretary of State shall be responsible for "the continuous supervision and general direction of … exports under this Act … to the end that sales, financing, cooperative projects, and exports will be integrated with other U.S. activities to the end that the foreign policy of the United States would be best served thereby." These statutory authorities are implemented through regulations, primarily the International Traffic in Arms Regulations, or ITAR. U.S. policy guidelines on arms transfers in turn derive from the President's Conventional Arms Transfer Policy, or CAT.

The current statement of CAT policy was approved in February 1995 and is the foundation of this Administration's approach to the role of arms transfers in U.S. foreign policy. Our CAT policy aims to strike the right balance between support to our friends and allies, the U.S. defense industrial base, our democracy and human rights objectives, and our regional stability and security goals. We try to prevent the transfer of technologies that exceed these requirements and may therefore threaten regional stability or contribute to arms races. We weigh all of these considerations in every arms transfer decision.

A good example of this effort is our work on small arms and light weapons. These items are low-tech and inconsequential in terms of directly threatening U.S. national security. Yet consider the foreign policy implications:

Items that are as low-tech as machine guns, mines, mortars and grenades are responsible for most of the killing that has taken place in intrastate conflicts since the end of the Cold War.

In fact, small arms and light weapons were the only weapons used in 46 of the 49 regional conflicts that have occurred since 1990. In sub-Saharan Africa, the AK-47 is virtually a weapon of mass destruction. In Latin America, and the Balkans, small arms and light weapons have exacerbated and prolonged conflicts, undermined peace agreements, contributed to regional instability, facilitated crime, and have hindered economic and political development.

At the other end of the technology spectrum, our decision-making aims to protect the U.S. technological edge. We take into account nonproliferation objectives in an attempt to control the ultimate possessor and end user of U.S. manufactured advanced weapons. The risk of diversion of advanced weapons into the hands of rogue state and non-state actors grows every day. We must use all the tools at our disposal to guard against an upward spiral of conventional arms acquisitions with destabilizing consequences. Our most effective tool in this quest to date has been a comprehensive defense trade control system. We remain convinced that the existing export controls system provides essential tools for advancing U.S. foreign policy, and must be preserved.

Globalization

We are mindful of the changes that have taken place in the defense marketplace as a result of globalization. We recognize that technology advances and political developments have altered the international environment substantially over the past decade.

As a result, it is imperative that we in the export control business proceed quickly to acquire sufficient human resources, streamline our processes, and adopt modern business practices. These are the steps that will allow us to properly balance:

The opportunities afforded by globalization and commercialization to enhance the military aspects of national security, while

Avoiding or mitigating possibly deleterious impacts of globalization and commercialization.

A ninety-five percent reduction in non-Middle East security assistance funds, declining investment in defense R&D and a two-thirds reduction in procurement since the end of the Cold War have accelerated a number of underlying trends affecting U.S. arms transfer policy and have made weapons transfers, for many of our security partners, the new "Coin of the Realm" in defense relations with the United States.

Once the exclusive domain of governments, defense trade is evolving into a vibrant commercial enterprise. Deregulation and global competition are compelling defense industries to consolidate via mergers, acquisitions and joint ventures on an unprecedented scale. At the core of this global integration is a technology revolution that has increased dependence on information-based war-fighting capabilities.

A diffusion of advanced dual-use technology, the commercialization of formerly military technology, and the growing reliance of militaries on commercially developed technologies has made for an increasingly permissive and sophisticated conventional arms market. Major suppliers today rely on the export of arms as a means of not only preserving national industries but also as a way of funding next generation systems. As more countries seek to either develop or acquire advanced technologies and capabilities, they are encouraged in their quest by a "buyers" market.

Buyers are demanding. They regularly receive increasingly sophisticated technology, as well as financial concessions. We are often faced then with the dilemma of whether or not to sell sensitive technology before other arms suppliers can. The problem is exacerbated by some foreign suppliers offering incentives to buyers - offsets, release of production technology, transfers of state-of-the-art systems - to try to counter U.S. market dominance.

It is also true that the USG has its own strategic interests in arms transfers - namely to promote interoperability with our key allies and friends, to help them maintain some degree of technological parity in defense capabilities, and to protect the viability of our defense industrial base.

We recognize that defense industrial cooperation can help both U.S. and allied defense establishments spread the fiscal

burden of new system development and production. This is a significant element in the United States Government's commitment to the NATO Defense Capability Initiative (DCI), for example. This initiatives is among those broad objectives of the USG designed to address the challenge of maintaining allied force interoperability in this era of rapid technological change.

Globalization poses tremendous challenges for the USG policy community. How can we effectively control items in this environment, while enabling necessary technological cooperation? Many argue that defense trade today has become so globalized that controlling it is both hopeless and counterproductive. They would say the U.S. should simply abandon our export control system - cast it off as an outdated relic of the Cold War.

Others contend that the U.S. defense trade controls system today is non-functional and needs to be rebuilt from scratch. They would suggest focusing only on controlling especially sensitive technologies, while permitting essentially unrestricted commerce in so-called "low risk" technologies.

In my view, neither argument is correct.

However, it must be a system that can quickly arrive at the proper answer that will get the right stuff, to the right place, on time. That is where we are headed now.

A comprehensive export control system is needed - now more than ever - to protect our national interests in an international security environment that is increasingly unpredictable. I believe that what is required is a reformist approach that recognizes - and takes due account of - the political, military and technology realities of globalization.

We are convinced that the existing defense trade controls system is flexible enough to enable us to adapt to these new demands. Modifying or adapting the system so that it remains viable in this era of globalization is a top priority for the State Department and one which we are committed to addressing in a timely, but carefully considered way.

Whatever changes we may ultimately decide to make must not compromise the underlying purpose or the essential integrity of the existing system. Despite resource constraints, we are now in the process of examining munitions export controls to look for ways to expedite the review of licenses, especially for close allies. We are confident it will be possible, within the existing defense trade controls system, to facilitate and enhance defense industrial cooperation with our allies without

sacrificing necessary controls. I am pleased to report that we are already making great progress in this effort.

State Department Resources and Capabilities

The Department's Office of Defense Trade Controls (DTC) provides advice to U.S. persons involved in the manufacture, export, temporary import, and brokering of defense articles and defense services. On an annual basis, DTC, in administering the International Traffic in Arms Regulations (ITAR), reviews about 45,000 license applications or other requests to export or temporarily import defense articles or defense services. The value of the authorizations provided to the U.S. defense industry averages about $27 billion. The average processing time in Fiscal Year 1999 for completing the review of license applications that were not referred to other offices and agencies (some 75 percent of the cases received) was 24 working days; processing time for cases staffed to other agencies averaged 98 days.

These timelines include over 130 cases, representing about one-third of the total dollar value of all authorizations, that required prior notification to the Congress pursuant to Section 36(c) of the Arms Export Control Act (AECA). Defense trade authorized by DTC is overwhelmingly concentrated among a small number of U.S. friends and allies (i.e.: about 85 percent of total authorizations are for NATO, other Western European countries [such as Sweden and Finland], Japan, Australia, Taiwan, South Korea, Israel, Egypt and GCC states [such as Saudi Arabia]).

DTC cooperates closely with law enforcement authorities to ensure compliance with the AECA and the ITAR, both at home and abroad. DTC personnel regularly assist Customs, U.S. Attorneys, and Justice in investigations and trial preparation, and frequently serve as expert government witnesses at trials. In the area of civil enforcement, in FY-99, DTC handled about 175 voluntary disclosure case from the U.S. defense industry and about 50 referral cases from other sources involving violations of the AECA/ITAR.

In all cases DTC works to ensure corrective action has been taken by industry, and over the years a substantial number of cases have resulted in civil penalties utilizing administrative measures such as debarment from participation in U.S. defense trade, insistence on comprehensive compliance programs subject to independent audit, and punitive fines. A substantial number have also resulted in criminal prosecutions. DTC also administers an extensive watchlist containing parties of concern and other relevant information for use in reviewing

export licenses, as well as a global end-use verification program ("Blue Lantern") that encourages foreign government and private sector compliance with U.S. law and regulations. Both of these programs are widely recognized by oversight bodies (e.g., Office of the Inspector General, General Accounting Office) as effective measures in helping ensure the application of appropriate controls over defense exports.

This is in marked contrast to the State Department munitions export control function that was described a number of years ago by the General Accounting Office as "a paper-mill, the focus of which was on approving licenses, not on enforcing laws." State, however, wants to do much better. We welcome in particular the funding that the Congress has directed to supplement DTC staffing and operations. Of the $9 million provided in Fiscal Year 2000, $5.5 million has been allocated for American salaries, in part to fund 23 additional full-time positions. We are upgrading a number of key positions, and we are working hard to fill remaining vacancies.

An additional $1.5 million is being used to fund ongoing contracts for support personnel and computer hardware purchases. The remaining $2 million is being used for new contract personnel, to support communications satellite and firearms licensing and reinforce compliance efforts, computer hardware and software purchases to accelerate electronic licensing, development of officer training aids, and travel (for audits, end-use monitoring, and industry education/outreach). We believe that with successful recruitment of personnel and establishment of these new programs, this level of funding will be sufficient to meet our statutory mandates, and that average license review timelines might be shortened to 10-12 days for cases entirely handled internally by DTC, and 60-65 days for staffed cases.

Diversions and Other Unauthorized Munitions Exports

Diversions and unauthorized re-transfers of U.S.-origin defense exports are of particular concern to the Department. Many recipients of U.S. defense exports are required to seek U.S. approval prior to the re-transfer of a U.S. export, and U.S. law provides for criminal and civil sanctions for re-transfer violations. U.S. prosecution (both domestic and foreign) has been vigorous. The Department, during recent years, has intensified its monitoring and review of alleged re-transfers and diversions.

In 1993, the Department developed, with oversight of senior management, a formal process to make decisions on

reports to Congress regarding unlawful use or transfer of U.S.-origin defense goods, services, and technologies. When positive determination about allegations is made, coordination among relevant bureaus is initiated to conduct Congressional consultation and notification.

A specific unit within DTC (the Research and Analysis Branch, or RAB) was created and charged with leadership in both identifying "reliable information" regarding such diversions or unauthorized transfers and in preparing the required notifications to Congress. To ensure effective execution of these responsibilities, RAB works closely with the Intelligence Community, the U.S. Customs Service, the Defense Department, State's office of the Legal Adviser, Department geographic and policy offices, and DTC colleagues performing licensing and compliance functions. The end-use check program supplements this effort.

DTC has generally handled 50-90 cases annually that typically involve a substantial number of potential Section 3 Congressional notifications, as well as diversion matters. In many cases, bilateral dialogue has proved fruitful. We have seen, for example, enhanced Israeli compliance with U.S. controls. On the other hand, we remain concerned that a brisk trade in "gray market" arms for Iran continues, particularly in aircraft and armored vehicle parts, and sophisticated military electronics.

DTC analysis has demonstrated notably that, in addition to transshipments from the U.S. to Iran through middlemen in Europe and the Far East, there is a disturbing trend concerning control over military surplus disposed overseas by NATO countries and possibly U.S. defense depots. Unauthorized transfers that have resulted in the transfer of militarily significant technology to China are examples of other activity with which we have considerable concern. While the Administration did not agree with all of the analysis in the Cox Committee Report, it shares the common objective of ensuring that U.S. national secrets are protected and that our technology is not diverted for military purposes. We also specifically agree on the need to ensure that the launch of U.S.-manufactured civilian satellites by China or any other foreign country does not inadvertently transfer missile technology.

As required by the National Defense Authorization Act for Fiscal Year 1999 (NDAA), satellite licensing jurisdiction was transferred to the Department of State on March 15, 1999. We have busily implemented specific, enhanced controls for the export of satellite and satellite related technology, and,

following consultations with the defense industry, the ITAR has been amended in order to reflect the jurisdictional change and establish NDAA-mandated procedures that enhanced scrutiny of export license applications.

State Department comsat licensing since March 15, 1999 has included over 900 interagency staffed cases, taking an average of slightly more than 80 calendar days to process (including time out with DoD and time to obtain Missile Technology Control Regime assurances). There were about 300 cases that were not staffed to other agencies for which the average processing time was 25 days. Fourteen cases required Congressional notification.

The Secretary of State, in her January 1999 report to the Congress concerning NDAA implementation, established, with Defense, a goal of "90 working days" for acting on satellite-related munitions export requests, exclusive of cases raising substantial policy issues or major sales requiring notification to Congress, and assuming the availability of additional financial and personnel resources. Clearly, even with the vigorous license review mandated by the NDAA, the "90 working day" goal has been generally met or bettered. We expect these processing times to decrease even further as a result of the 2000 State Authorization Bill, which provides for a new commercial satellite regulatory regime.

Pressure for Fewer Munitions Export Controls

During the past several months, we have seen a number of proposals that are aimed at reducing the license review times, increasing efficiency by placing greater emphasis on an electronic control process, and reducing the types of defense trade transactions for which exporters must now seek USG authorizations. In this context, there has been extensive discussion with the Defense Trade Advisory Group for U.S. industry perspective, the Department of Defense and interested U.S. agencies.

The Department of State is exploring a number of ideas to improve export licensing efficiency and effectiveness. This includes ideas in general areas of:

a. "Umbrella" approaches, such as a global cooperative project license when there are programs covered by a government-to-government or defense agency memorandum of understanding which, along with related documentation, sets forth detailed parameters for bilateral cooperation;

b. Special handling for cases associated with particularly

important programs such as the Defense Cooperative Initiative with NATO allies; and

c. Streamlining of retransfers for NATO, Australia and Japan.

d. Extending the duration of certain types of licenses.

Additionally, the State Department would be supportive of more extensive Department of Defense use of licensing exemptions that currently are provided in the ITAR. We believe that better use can further interoperability, coalition war-fighting, and other national security objectives.

A major issue that has arisen in the context of our work on licensing reform is whether to extend regulatory provisions like the Canadian ITAR exemption to countries willing to align their export controls with ours. Such a step would, in effect, exempt defined categories of defense exports to specific countries, from USG licensing.

The question of whether or not to exempt categories of defense technologies that take steps to align their export control systems with us raises many difficult legal, regulatory, and policy issues. Strong arguments are being raised on both sides of the case. Secretary Albright as chief manager of defense export controls under the Arms Export Control Act is consulting with her colleagues considering these issues before coming to a decision.

Today's hearing is timely, in that it will enable me to convey to the Secretary the views of the members of this Committee.

Underlying many of the reform proposals is a common appreciation that review of licenses supported by voluminous hard-copy documentation can be cumbersome and that reduction of this material to an electronic format is highly desirable. The State Department is working hard with DOD to meet this goal, and we believe that in the near future much of the information we collect and disseminate in the licensing process can be handled via an electronic medium.

Likewise, we are hotly pursuing the electronic collection of actual export shipment data under our Direct Shipment Verification Program and expect in the relatively near future to promulgate regulations that will institutionalize this program throughout the U.S. defense industry. This system's development will be a considerable boon to our analytical capabilities when reviewing license applications, as well as our enforcement efforts.

We also believe that a "major program License" proposal made by the State Department, which would facilitate licensing by reducing the number of hardware licenses for major commercial programs and providing a longer duration for the licenses in question, is a type of initiative likely to be beneficial to commercial exports, while protecting our policy interests.

Our aim in these efforts is to develop a plan for reforming and adapting defense trade controls that will serve all of us well for years to come. I need to emphasize that these are ideas under discussion within the Administration and that no final decisions have been made. As soon as we have an Administration position, we will consult with Congress.

Conclusion

In conclusion, the State Department is mindful that every time we approve the transfer of a weapons system, we must be confident that the transfer strikes a good balance among the various goals and criteria of our conventional arms transfer policy.

Individual defense companies can judge success solely based on their total sales. The government does not have this luxury. DoD procurement officials may understandably judge success based on the effect on unit costs in U.S. procurement. The government as a whole must take a broader view. Regardless of the value of U.S. arms sales, our success must be judged by our contribution to meeting U.S. foreign policy and national security goals, including the enhancement of international peace and stability.

This involves taking various objectives and considerations into account. We seek to enhance the ability of the U.S. defense industrial base to meet U.S. defense requirements in a secure and economical way. We also must ensure that our military forces can continue to enjoy a technological advantage over potential adversaries. But we must also be wary of inadvertently providing military means to future U.S. adversaries or combatants in unstable regions that will contribute to violence and regional instability.

Managing our transfer policy clearly requires a government-wide effort. The people in this room have significant expertise that must be brought to bear on the arms transfer review process - not only on the technical aspects of weapons proposed for transfer - but on regional dynamics,

including states' vulnerabilities, insecurities, perceptions, motives, and needs.

I look forward to working with you, both personally and through my staff, on advanced technology and U.S. arms transfer decisions that look ahead to the future - decisions that take account of the trends in the global security environment, as well as in the global arms and technology marketplace.

Many of these decisions are not easy. Finding the right balance often requires close interaction between Congress, the Administration and industry.

We want America to maintain its predominance. We will do our part to achieve that objective.

Mr. Chairman, members of the Committee, I appreciate your attention and will be happy to answer any of your questions.

**Search Terms: U.S. Satellite Sales**



**Document 1 of 1.**

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**HEADLINE: U.S. Satellite Sales** Lag Since Regulatory Shift

**BYLINE:** Vernon Loeb , Washington Post Staff Writer

**BODY:**

U.S. satellite makers have lost significant market share to their European competitors since Congress transferred authority over export licensing from the Commerce Department to the State Department a year ago, industry executives say.

While Congress acted over concerns that two U.S. satellite firms may have transferred sensitive satellite and missile technology to China, the shift in regulatory control now means that all satellite-related commercial exports--even those to close NATO allies--require licenses under the same stringent regulatory scheme as foreign weapons sales.

"This was a political act that was taken without a lot of thought given to the real world consequences," Joel Johnson, a vice president at the Aerospace Industries Association (AIA), said in an interview. "We will always be a lone ranger out there, as long as commercial satellite exports are treated as defense articles, making our industry jump through hoops our competitors don't have to."

Clayton Mowry, executive director of the Satellite Industry Association, said data compiled by his organization show that U.S. firms, which dominated three-quarters of the market for commercial communications satellites as recently as two years ago, won only 12 of 23 commercial satellite orders placed over the past year.

AIA President John W. Douglass told the Senate Armed Services Committee at a hearing last week that U.S. satellite sales have dropped 40 percent since the transfer of regulatory control to the

State Department, without any sales impact on China.

"Sixteen nations have written to the secretary of state saying, 'We are no longer going to buy any satellite parts at all from the United States because we cannot get the parts in time,' " Douglass said.

With the House International Relations Committee scheduled to hold hearings today on defense export controls, one Capitol Hill source said Rep. Benjamin A. Gilman (R-N.Y.), the committee's chairman, is sympathetic to the satellite industry's concerns but not about to transfer control back to the Commerce Department.

"Sure, they have legitimate concerns," the source said, noting that Congress has already approved 17 new State Department positions to help speed the licensing process.

William J. Lowell, director of the State Department's Office of Defense Trade Controls, agreed that the transfer of regulatory control from the Commerce Department in March 1999 has created an array of thorny issues, because Commerce was only required to license satellite-related exports to "sensitive" countries such as China.

Nonetheless, Lowell said he thought 16 major commercial satellite sales licensed by his office over the past year--all of which required congressional notification as weapons sales--went smoothly.

But he acknowledged delays in licensing exports involving satellite parts and components. He promised that regulations designed to speed exports to NATO allies, mandated by Congress last fall in response to such delays, would be published within a month.

Beside those 16 satellite deals, Lowell's staff had to issue 2,000 satellite-related licenses involving parts, components and so-called "technical assistance agreements."

At a forum on export controls yesterday sponsored by former senator Sam Nunn (D-Ga.) at the University of Georgia, one industry executive held up several basic electronic components and said they would require export licenses as part of a commercial satellite deal, even though they can be purchased at any Trak Auto store.

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**Document 1 of 1.**

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